



INDUSTRY CIRCULAR

DEPARTMENT OF
THE TREASURY

Bureau of Alcohol, Tobacco and Firearms
Washington, D.C. 20226

Number: 78-6

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VOLUNTARY DISCLOSURE POLICY

Proprietors of Distilled Spirits Plants, Bonded Wine Cellars,
Tax Paid Wine Bottling Houses, Brewers, Importers,
Wholesale Malt Liquor Dealers, Wholesale Liquor Dealers,
and Others Concerned:

Purpose. A number of inquiries have been received regarding the policy of the Bureau of Alcohol, Tobacco and Firearms concerning voluntary disclosure by the persons or organizations responsible for violations of laws administered and enforced by the Bureau. In addition, the Bureau intends as a general matter to place increasing emphasis on the use of criminal sanctions, particularly where the mitigating factor of voluntary disclosure is not present. This circular is issued as the official statement of ATF policy regarding the voluntary disclosure of violations or possible violations of the Federal Alcohol Administration Act and those sections of the Internal Revenue Code relating to alcoholic beverages.

Basically, the policy is that all persons or business entities subject to the jurisdiction of the Bureau, are encouraged to come forward and voluntarily and fully disclose their violations of the above statutes. Such disclosure will be viewed as a mitigating factor in deciding what action to take. Such a voluntary disclosure will not result in any immunity from criminal, civil or administrative action. In addition, such disclosure will not affect any tax related liability -- criminal or civil -- under the Internal Revenue Code. Factors to be considered in terms of possible mitigation are the speed and completeness with which voluntary disclosure is made after knowledge of possible violations is brought to the attention of corporate management, and the steps to be taken to discipline those responsible for the illicit activities and to prevent the recurrence of such offenses in the future.

The range of Bureau actions include: admonition or reprimand; acceptance of an offer-in-compromise; permit

suspension; permit revocation; or referral for civil or criminal action to the Department of Justice. Actions against individual corporate officers may in certain cases be more severe than those taken against the corporation.

An industry member wishing to make a voluntary disclosure of acts and practices which may constitute violations of the above statutes should do the following:

1. Upon establishing the existence of possible violations, write the Bureau stating the intention to make such a full disclosure. Include in that letter a description of the internal review and audit which the company will make to determine the full extent of the illicit activities that may have occurred, a statement as to when that audit will commence and an estimate of the time which will be required to complete that review and audit.
2. Start the proposed internal review and audit promptly and be prepared to modify or expand it to meet suggestions made by ATF after consideration of the letter of notification.
3. Make full disclosure to ATF of all illicit acts and practices with sufficient detail to permit independent verification by ATF, furnish ATF a complete report on the internal review and audit and be prepared to make any additional investigation or verification suggested by ATF after it has considered the report.
4. Establish effective internal procedures to prevent recurrence of violations, including the adoption of policies for taking company action against employees in the event future violations are uncovered.

It has been our experience that a mere commitment by top management accompanied by a warning letter to all sales employees from the president does not constitute sufficient internal controls, particularly in a large organization. The illicit and the questionable practices can be eliminated only by positive action. That includes giving employees a full set of guidelines to follow, making

them fully aware that the consequences of noncompliance will be stern disciplinary action, a system of positive checks to make sure that the employees do in fact follow the guidelines, and retention of full records of the checks made and disciplinary action, if any, taken.

ATF will take appropriate action on voluntarily disclosed violations up to and including a recommendation of criminal prosecution where it is warranted. Examples where criminal prosecution may be recommended, even where the activities are voluntarily disclosed, include bribery of public officials, involvement in organized criminal activities, previous obstruction of justice and particularly flagrant violations of the Federal Alcohol Administration Act.

The information obtained through voluntary disclosure will be verified via ATF field investigation to the extent necessary to insure that a full and complete disclosure has been made. Particular attention will be paid to determine if the admission of minor or technical violations is being used to cover up more extensive or serious violations. Verification will also involve determining whether the proscribed practices have been discontinued. Finally, an inquiry will be made into whether adequate internal controls have been established to prevent recurrence of the practices. These field investigations will be carried out by personnel of the Regulatory Enforcement or Criminal Enforcement Divisions, as appropriate.

If during the course of reviewing the disclosure it becomes apparent that the disclosure is inaccurate or incomplete in any respect, ATF will initiate a full investigation of the trade practices of the industry member. If evidence disclosed by such an investigation indicates that any such omissions or inaccuracies were deliberate, the disclosure will not be considered a mitigating factor in determining what action will be taken by ATF. Further, consideration will be given as to whether the omissions or inaccuracies would constitute an additional charge of obstruction of justice.

Information voluntarily disclosed to ATF will be made available to other Federal and State agencies as appropriate.

Finally, the voluntary disclosure procedure will not serve to terminate or delay an investigation which has already been initiated at the time a commitment is made, nor bar investigations of offenses involved in the disclosure. Ordinarily ATF will not initiate a new investigation for a reasonable amount of time to give the industry member a chance to conduct the internal audit. ATF, however, retains the discretion to do so if deemed by it to be appropriate.

Inquiries. Inquiries concerning this Circular should refer to its number and be addressed to the Assistant Director (Regulatory Enforcement), Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D. C. 20026.

Rex D. Harris
Director

Department of the Treasury
Bureau of Alcohol, Tobacco and Firearms
Washington, D.C. 20226

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